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ABSTRACT

This ERIC digest presents a rationale for teaching students about their rights and responsibilities as citizens under the U.S. Constitution. Social studies teachers have a special role in shaping the lives of young citizens and influencing whether students become politically involved adults. Specific constitutional rights such as the right of a criminal suspect to legal representation and the bar on the imposition of cruel and unusual punishment are raised as important subjects for students to understand. Methods of teaching about these rights are suggested. Student rights and responsibilities under the U.S. Constitution also are discussed. (DB)

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Stephen S. Gottlieb

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If people are to exercise their rights and fulfill their responsibilities as citizens, they must understand those rights and responsibilities. Social studies teachers have a special role to play in shaping the lives of young United States citizens. Those educators can help determine whether students will know their civic rights and responsibilities and become politically involved adults.

U.S. Government Structure and Citizens' Rights. An appreciation of the rights and responsibilities of American citizens requires a basic understanding of the structure of the United States government. Teachers can use lectures, readings, role-playing activities, and a host of other techniques to help students understand the organization of the federal government and its relationship to the individual states. The most natural starting point for such study is the Constitution.

Students will be interested to learn that the Bill of Rights, which many consider to be a model civil liberties document, was the result of a compromise. It was offered to allay fears about the strong central government established under the basic Constitution. Some state ratifying conventions would not have approved the Constitution had they not been promised the Bill of Rights as well.

Criminal Law and Juvenile Justice. The Constitution's Fourth Amendment prohibits police officers from breaking into people's homes without a warrant, seeking out and seizing evidence of crimes, and using that evidence against the residents in criminal trials. However, it was not until 1961 that the U.S. Supreme Court established the "exclusionary rule" clearly, which prevents officials from using evidence gained illegally in the prosecution of a person accused of a crime. Students will enjoy debating whether that landmark ruling in the case of *Mapp v. Ohio* was the right decision for the Court, and what problems it could pose for law enforcement. For example, critics have argued that the "exclusionary rule" may result in acquittal of persons who might otherwise have been proven guilty. Supporters, however, have hailed it as a great defense of individual liberties.

Critics of the criminal justice system often ask why the state should have to supply defense attorneys for criminal suspects. To a person who has not made a serious study of the Constitution, it might seem odd that the government sometimes assists people who may have broken the government's own laws. The 1963 case of *Gideon v. Wainwright* stands for the proposition that a person cannot be denied equal access to justice simply because he lacks the resources to pay for his defense. The questions of whether poverty justifies free legal representation and whether a poor person gets the same quality legal help as a rich person does provide excellent grounds for class discussion.

Anyone who has watched a television police drama in the last few decades is familiar with the litany known as the "Miranda warning." Most people probably do not know who Miranda was or realize the full significance of the individual instructions. What does the Fifth Amendment's ban on compelling a person to be a witness against himself have to do with the Miranda case? An informed citizen should know. Was the Miranda decision a necessary defense of individual rights? Or has it unfairly restricted police officers in their apprehension of criminals? Students should be challenged to debate this constitutional issue.

In some countries, citizens must carry identity cards and show them to public authorities on demand. In most circumstances in the United States, people going about their business do not have to stop and explain themselves to every passing police officer. People need to be aware, however, that there are exceptions to this general rule. Administrative checks of automobiles and roadblocks to seek out drunk drivers on public highways have been upheld by the courts. Even on the sidewalk, police can stop people who are acting suspiciously, and frisk them when the situation warrants. Where should the United States draw the line between the "let me see your papers" mentality of authoritarian regimes and the legitimate interest of governments in protecting the public from dangerous individuals? This critical question should be used to focus classroom discussions.

The Eighth Amendment bars the imposition of cruel and unusual punishment and prohibits excessive bails and fines. When is a punishment "cruel and unusual"? When is a fine "excessive"? Much has been written about the relationship between the Eighth Amendment and capital punishment. Given a hypothetical situation about a death penalty case, a classroom may produce as many different opinions about the case as there are students in the class.

The law treats children accused of breaking the law somewhat differently from adult suspects. Prosecutors generally must follow a different set of procedures when putting juveniles on trial. However, when facing the possibility of commitment to an institution, a juvenile offender must still be advised of the charges and of the right to counsel, the privilege against self-incrimination, and the right to confront prosecuting witnesses. As in the case of an adult charged with a crime, the guilt of a juvenile accused of committing an act of delinquency must be proven beyond a reasonable doubt.

Role-playing activities provide excellent means for learning about the United States justice system. Students will enjoy the drama of taking the part of a judge, lawyer, witness, or litigant. Criminal cases and situations pitting a person's individual rights against the authority of the government are particularly excellent situations for capturing and holding the attention of students.

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Constitutional Rights at School. Students do not set aside their constitutional rights when they walk into school. However, those rights are balanced against school administrators' disciplinary authority and the civic responsibilities of students. Children facing suspension from school must be given hearings, but those hearings need not amount to formal trials. A student can wear an armband to school as an expression of his political views, but may be disciplined for a sexually suggestive speech delivered at a school-sponsored assembly. A student contributor to the school newspaper enjoys First Amendment rights, but the school that sponsors the paper can remove material that it views as inconsistent with the school's educational mission. School boards may order the removal of books from school libraries, but are prevented from taking the action if it is for partisan political reasons.

The rules regarding search and seizure also apply differently to schoolchildren. School officials are free to search a student if there is evidence that the student committed a crime or violated a school rule, and if the search is reasonable at the outset and reasonably limited in scope.

One of the most significant United States Supreme Court decisions in history dealt with the issue of race in public education. Prior to the 1950s, African Americans were still barred from attending many public schools solely on racial grounds. Longstanding court decisions held that "separate but equal" educational facilities for blacks were acceptable. In 1954, in the landmark decision of *Brown v. Board of Education of Topeka,* the United States Supreme Court finally held that the "separate but equal" policy was inherently unequal. In a follow-up ruling the next year, the justices ordered that schools were to be desegregated "with all deliberate speed." Notwithstanding the ruling, school desegregation suits continue to crop up from time to time.

The cases and situations discussed comprise just a small part of the United States' rich legal history. Knowledge of that history is of the utmost importance to those who are about to become adult participants in American society.

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